

Trust Board Meeting in Public: Wednesday 13 January 2016
TB2016.13

Title	Update on Liaison with Monitor
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Status	For information and for decision.
History	This is the first report of this nature since authorisation as a foundation trust.

Board Lead(s)	Andrew Stevens, Director of Planning and Information			
Key purpose	Strategy	Assurance	Policy	Performance

Executive Summary

This paper provides information about reports made to Monitor, the regulator of NHS Foundation Trusts, since Oxford University Hospitals became a foundation trust (FT) in October 2015.

Recommendation

The Board is asked to **note** the reports made to Monitor during October – December 2015 and to **agree** the content of the required In Year Governance Statement for signature on the Board's behalf by the Chairman and Chief Executive.

Update on Liaison with Monitor

1. Purpose

- 1.1. This paper summarises reports made to Monitor, the regulator of NHS Foundation Trusts (FTs), since Oxford University Hospitals became an FT in October 2015. It also sets out information which OUH is required to send Monitor later in January.

2. Routine reporting

- 2.1. In common with other FTs, OUH makes monthly reports to Monitor using a standard format. A fuller quarterly report will be made for the first time in January for the period October-December 2015.
- 2.2. Monthly reports cover:
- 2.2.1. Financial Sustainability Risk Ratings from Monitor's Risk Assessment Framework.¹ These are reported in the monthly Finance Report to the Trust's Board and Finance and Performance Committee. An overall Financial Sustainability Risk Rating is calculated from four measures, which are given equal weight in the calculation:
 - 2.2.1.1. Capital service cover: revenue available for servicing capital requirements as a ratio of capital servicing requirements for the month.
 - 2.2.1.2. Liquidity: days of operating expenses covered by the working capital balance available.
 - 2.2.1.3. Income and Expenditure (I&E) margin calculated from a surplus/deficit for the month which has been normalised to exclude exceptional items.
 - 2.2.1.4. Percentage variance of the I&E margin from plan.
 - 2.2.2. Pay costs by staff group, including a breakdown of expenditure on substantive, bank and agency staff.
 - 2.2.3. Activity levels, including elective inpatient spells, elective day case (same day) cases, non-elective spells, outpatient attendances and A&E attendances.
 - 2.2.4. Total operating expenses, PFI operating expenses, Cost Improvement Programme, cash at the end of the month and any support funding (none in OUH's case).
- 2.3. Quarterly reports, the first due on 29 January 2016, include the above plus information about any resignations or appointments of Executive Directors; any elections to the Council of Governors held during the quarter; and an In Year Governance Statement which is reproduced at Appendix 1.
- 2.4. The Board is asked to review the In Year Governance Statement and, informed by evidence of developments in urgent care and cancer services, to agree what declaration should be made on its plans (the third statement) and any related statement should one be needed. Proposed text will be provided for consideration at the meeting.

¹ Risk Assessment Framework, Monitor, August 2015:

<https://www.gov.uk/government/publications/risk-assessment-framework-raf>

2.5. The Board asked to agree that the resulting declaration be signed on its behalf by the Chairman and Chief Executive.

3. 'Side letter' reporting

- 3.1. When OUH was authorised as an FT, a 'side letter' required the Trust's Board to provide formal assurance to Monitor on four areas in addition to routine reporting.²
- 3.2. In each area, information has been agreed with Monitor and provided each month as follows:
- 3.2.1. Current year trading: monthly Finance Report to Board or Finance Committee.
 - 3.2.2. Progress on Cost Improvement Programme: monthly update provided to Transformation and CIP Committee as the basis for CIP information in the Finance Report.
 - 3.2.3. Updated performance improvement plan for Cancer.
 - 3.2.4. Updated performance improvement plan for Urgent Care.
- 3.3. OUH continues to brief Monitor on developments in urgent care. The regulator's leads for OUH, for Oxford Health and a member of their Improvement Team had a call on 14 December with the Director of Clinical Services and his counterpart at Oxford Health to provide an update on:
- 3.3.1. the Oxfordshire-wide 'rebalancing' plan (based on a presentation made by the Director of Clinical Services to the Joint Health Overview and Scrutiny Committee) and actions in the week of 7 December;
 - 3.3.2. the latest position on delayed transfers and drivers of change since the meeting with NHS England/Monitor on 6 November, including NHS-attributable and social care delays;
 - 3.3.3. clinical input, clinical leadership and clinical staffing model;
 - 3.3.4. critical success factors and triggers for further action;
 - 3.3.5. internal governance and agreement of the rebalancing plans including clinical staffing; and
 - 3.3.6. assurance and monitoring of admissions avoidance and the use of escalation.
- 3.4. Monitor expected to provide key messages from the call to members of NHS England's South Central team who had been involved in system-wide discussions in November.

4. Exception reporting

- 4.1. Monitor's Risk Assessment Framework (August 2015) requires FTs to provide an annual corporate governance statement setting out any risks to compliance with the governance condition of their licence and actions taken or being taken to maintain future compliance.
- 4.2. As an FT, the Trust is also expected to notify Monitor in writing of:

² Letter from Chief Executive of Monitor to Chairman of OUH, 2 October 2015:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/467661/Oxford_side_letter_sent_to_trust_021015.pdf

- 4.2.1. any incidents, events or reports that may reasonably be regarded as raising potential concerns over compliance with its licence, such as a report by a medical Royal College that identifies concerns relevant to the trust's governance of quality (and therefore to the trust's compliance with its licence);
- 4.2.2. what are described as "organisational health indicators that may indicate a risk to the current or future quality of care provided by an NHS foundation trust, including results from patient and staff surveys, staff turnover and agency staff numbers"; and
- 4.2.3. events that could have an impact on the operation of [its] business, such as
 - 4.2.3.1. undertaking a major acquisition, investment or divestment
 - 4.2.3.2. losing a significant contract
 - 4.2.3.3. a significant change in capital structure
 - 4.2.3.4. a material deterioration in financial performance
 - 4.2.3.5. an immediate need to spend significant sums to meet regulatory requirements (e.g. increased costs as a result of a requirement from CQC).
- 4.2.4. Where exception reports are needed, they are expected to describe:
 - 4.2.4.1. the issue that has arisen or will arise, the area of the licence that it affects, the magnitude of the issue and when it will have an effect or when it occurred
 - 4.2.4.2. any actions planned to address the issue
 - 4.2.4.3. a list of any affected parties
 - 4.2.4.4. if it hasn't done so already, how the trust plans to notify relevant parties of the issue and address any impact on them.
- 4.3. Exception reports have been made to Monitor as follows:
 - 4.3.1. Notification of an incident classified as a Never Event on 29 October, the day it was notified to the Care Quality Commission, Oxfordshire Clinical Commissioning Group and NHS England.
 - 4.3.2. Notification on 19 November that, after the announcement of results from a ballot on industrial action by junior doctor members of the British Medical Association, contingency planning was expected to lead to the cancellation of elective and outpatient activity for the first notified day of industrial action on 1 December, with an adverse impact on the Trust's ability to deliver its planned elective and outpatient activity.
 - 4.3.3. Notification of the death of a member of the public found at the base of a stairwell at the John Radcliffe Hospital on 14 November.

5. Special reporting

- 5.1. Since October, Monitor has requested two special data collections from all FTs.
- 5.2. In November, information was provided on the trust's expenditure on agency and contract staff and on (contractual) fines and penalties as at 30 October.
- 5.3. In December, an update of this information to 30 November was provided, as was information about revenue lost due to the Marginal Rate Emergency Tariff (MRET);

to readmissions and to delayed transfers of care; and actual and forecast spend on waiting list initiative work and outsourced activity.

5.4. Some of the information requested was in a form not routinely reported. The information submitted is summarised in the table below.

Category	Actual value 1 April - 30 Nov 2015 (£m)	Forecast for year to 31 March 2016 (£m)
Expenditure on locum, fixed term appointment and non-substantive medical and dental staff	3.324	5.282
Expenditure on agency registered nurses and midwives	9.285	15.354
Expenditure on other agency and contract staff	6.939	7.864
Total expenditure on agency and contract staff	19.548	28.5
Contractual financial sanctions	1.24	1.728
LESS contractual financial sanctions reinvested	-0.594	-0.797
Total expenditure on contractual financial sanctions	0.646	0.931
Revenue lost due to Marginal Rate Emergency Tariff (MRET)	7.444	11.166
LESS MRET reinvested	0	0
Total revenue lost due to MRET	7.444	11.166
Lost revenue due to readmission penalties	2.507	3.761
Lost revenue due to Delayed Transfers of Care	2.933	4.4
Expenditure on Waiting List Initiative activity	2.84	4.27
Cost of work outsourced to other NHS providers	0	0
Cost of work outsourced to non-NHS providers	1.896	2.85
Total expenditure on outsourced activity	1.896	2.85
Grand total	37.814	55.878

5.5. The continuing pressure of agency expenditure continues to be evident. Set alongside this, the scale of financial pressure in urgent care services is of similar significance, with the £11.2m lost due to the Marginal Rate Emergency Tariff (MRET) added to by readmission and delayed transfer penalties and contractual financial sanctions for A&E waits and ambulance handovers to reach a forecast total of some £19m for the year.

5.6. Expenditure on waiting list initiative activity, outsourced work and penalties related to elective care indicate planned care pressure of some £8m for the year.

6. Recommendation

6.1. The Board is asked to **note** reports made to Monitor and to **agree** the In Year Governance Statement to be signed on its behalf by the Chairman and Chief Executive.

Andrew Stevens
Director of Planning and Information

January 2016

Report prepared by:

Jonathan Horbury
Foundation Trust Programme Director

Appendix 1

In Year Governance Statement from the Board of Oxford University Hospitals NHS Foundation Trust

Proposed response for the January 2016 return:

The board are required to respond "Confirmed" or "Not confirmed" to the following statements

For finance, that:	
The board anticipates that the trust will continue to maintain a financial sustainability risk rating of at least 3 over the next 12 months.	Confirmed
The board anticipates that the trust's capital expenditure for the remainder of the financial year will not materially differ from the amended forecast in this financial return.	Confirmed
For governance, that:	
The board is satisfied that plans in place are sufficient to ensure: ongoing compliance with all existing targets (after the application of thresholds) as set out in Appendix A of the Risk Assessment Framework; and a commitment to comply with all known targets going forwards.	
Otherwise:	
The board confirms that there are no matters arising in the quarter requiring an exception report to Monitor (per the Risk Assessment Framework, Table 3) ³ which have not already been reported.	Confirmed
Consolidated subsidiaries:	
Number of subsidiaries included in the finances of this return. This template should not include the results of your NHS charitable funds.	None

The board is unable to make one of more of the confirmations in the section above on this page and accordingly responds:

³ Reproduced at paragraph 4.2 in the paper above.